

[REDACTED]

CERTIFIED MAIL

[REDACTED]

APR 07 1993

Dear Applicant:

We have completed our review of your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

The evidence submitted indicates that you were incorporated [REDACTED] under the laws of the State of [REDACTED] for the following purposes: (a) to provide funds to help handicapped individuals insure that the handicapped parking spaces are utilized only by those legally entitled to them (b) to provide funds to enrich the quality of the community (c) to provide funds to develop, support and assist this organization in its responsibilities as a member of the community and (d) to provide funds for supplementing community organizations.

No provisions have been included in your articles of incorporation to provide for the distribution of your assets in the event your organization dissolves.

Your activities, as stated in your application include issuing tickets to vehicles illegally parked in handicapped spaces and assisting local police by issuing tickets to cars parked in handicapped spaces. You also stated that you raise funds to defray the college costs of a local 10 year old boy who has been accepted for a special session of college but have not provided any criteria on how this individual was selected for assistance.

In addition, you also are involved with a tax certificate program which permits local individuals to purchase property from the municipal government where owners have not paid real estate taxes. The tax certificates are actually tax liens filed against a property. The municipality auctions off the property as "tax certificates" and collects the unpaid taxes from individuals who bid on the property. The municipality gets paid the funds it is due and the bidder buying the tax certificate gets repaid with tax-free gains.

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]	[REDACTED]			
Surname	[REDACTED]	[REDACTED]	[REDACTED]			
Date	3-24-93	3/29/93	4/2/93			

[REDACTED]

The tax free program, as described in your application, works as follows: The municipality decides to sell a tax certificate in order to collect back real estate taxes on the property. The amount of back taxes due is \$1,000. The municipality places ads in the local newspaper announcing that an auction will be held. At the time of the auction, the property is sold to the lowest bidder who pays the back taxes on the property of \$1,000. At the end of the year, when the purchaser of the property either sells the property or the municipality receives payment of back taxes, the owner of the tax certificate receives his money back, plus interest at 10%. According to the information described in your application materials, the interest received from this transaction is tax free.

You also indicate in your application that you expect to solicit funding from public donations, corporate donations and fund raisers to finance the activities of your organization.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable and other stated purposes, no part of the net earnings of which inures to any private shareholder or individuals, such as the creator and his family.

Income tax regulations section 1.501(c)(3)-1(a)(1) provides that, to be exempt, an organization described in section 501(c)(3) must be organized and operated exclusively for one or more of the purposes described in this section. If an organization fails to meet either organizational test or operational test, it is not exempt.

Income tax regulations section 1.501(c)(3)-1(b)(1) specifies that an organization is organized exclusively for one or more exempt purposes only if its Articles of Incorporation limit the purpose of such organization to one or more exempt purposes.

Regulations section 1.501(c)(3)-1(c)(1) stipulates that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish any of the activities specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulations section 1.501(c)(3)-1(d)(1) (ii) state that an organization is not organized or operated exclusively for an exempt purpose unless it serves public rather than private interests.

In Ecclesiastical Order of Ism of Am v. Commissioner, 80TC, 833, the Tax Court ruled that an organization formed to provide tax counselling information and investment advice on how to reduce tax liability is not entitled to exemption from Federal taxation under sections 501(a) and 501(c)(3) of the Internal Revenue Code since dissemination of tax and investment advice serves a

[REDACTED]

substantial nonexempt purpose. The court also noted that the information furnished was no different from that distributed by a commercial tax and investment service. Therefore, the court ruled that the organization served private rather than public interests and did not qualify for tax exempt status under section 501(c)(3).

Revenue Ruling 67-367, 1967-2, C.B. 1988, deals with an organization that provided scholarship assistance to a pre-selected individual which did not qualify for exemption under section 501(c)(3). By operating in this manner the organization is serving private interests rather than the public charitable and educational interests contemplated by section 501(c)(3).

In Better Business Bureau v. United States, 326 U.S. 279, 283, (1945), the court held that the existence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of truly exempt purposes.

To qualify for exemption under section 501(c)(3), the applicant organization must show (1) that it is organized and operated exclusively for religious or charitable purposes, (2) that no part of its net earnings inures to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consists of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity. See Kenner v. Commissioner, 318 F. 2d 632 (7th Cir. 1963).

Our review of the application submitted indicates that your articles of incorporation do not meet the organizational test required to be recognized as tax exempt under section 501(c)(3) since this document does not exclusively limit your purposes exclusively to one or more purposes described in this section. In addition, you also have not made any provision for the distribution of your assets in the event your organization dissolves.

Our review of the activities conducted by your organization indicate that you have not established that you are operated exclusively for charitable purposes as required by this section. While the assistance you provide to local police departments with your ticket writing activities provides some evidence that you provide services helpful to the community, you have not provided sufficient details about how much revenue and other benefits are realized by the community for us to make a determination that this activity serves truly charitable purposes.

From the description of your other activities, it appears that your tax certificate program is or expects to be one of your major activities. Programs which offer tax and investment advice are not activities which are permitted by section 501(c)(3) since this type of program serves a substantial nonexempt purpose and serves private rather than public interests. This type of information is usually disseminated through normal commercial business which makes this activity indistinguishable from a normal commercial trade or business.

[REDACTED]

Your scholarship activity, as presently described, also does not qualify for tax exempt status since, like the organization described in Revenue Ruling 67-397, your organization is directing its scholarship assistance primarily toward one, pre-selected individual rather than a charitable class. You have also not provided any description of what criteria was used to determine this individual's eligibility to receive assistance such as financial need or academic merit.

This activity, as described, permits the net earnings of your organization to benefit private individuals rather than the public at large and serves private rather than public interests. Therefore, based on the information submitted, we have determined that you fail both the organizational and operational tests required to be exempt under section 501(c)(3). Since you do not qualify for exemption, you are a taxable entity and are required to file Federal income tax returns on Form 1120.


Contributions to your organization are not deductible under section 170 of the Code.

In accordance with section 6104(c), we are notifying the appropriate state officials of this determination.

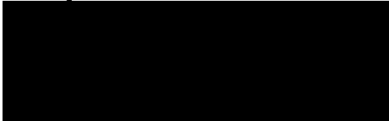
You have the right to appeal this determination if you believe it is incorrect.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office or any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter. Further, if you do not appeal this determination within the time period, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies.


Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,


District Director

Enclosures: Publication 892

cc: State Attorney General 